

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

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Attorneys for the Debtor

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In re:	:	Case No.: 18-29983 (ABA)
	:	
CASSANDRA L. BANKO,	:	Chapter 11
	:	
Debtor	:	
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	X	

**STIPULATION BETWEEN DEBTOR AND US BANK, N.A. REGARDING
MODIFICATION TO DEBTOR’S PLAN OF REORGANIZATION**

Debtor Cassandra L. Banko (“Debtor”) and U.S. Bank, NA (“US Bank”) stipulate as follows:

RECITALS

A. The Debtor filed her voluntary petition for reorganization under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”) with the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) on October 8, 2018 (the “Petition Date”).

B. The Debtor continues to conduct her affairs as a debtor-in-possession pursuant to Section 1107 of the Bankruptcy Code.

C. Debtor and US Bank are parties to that certain Promissory Note dated as of September 23, 2005 in the amount of \$415,000 (the “Note”). As of October 13, 2018, the outstanding balance due on the Note was \$617,360.17.

D. To secure her obligations under the Note, Debtor granted US Bank a mortgage (the “Mortgage”) on property owned by her at 304 N. Essex Avenue, Margate, New Jersey (the “Property”). The Note, Mortgage and all other documents executed in connection therewith, hereinafter the “Loan Documents.”

E. The Debtor fell behind in her obligations to US Bank and as of this date owes US Bank \$106,223.13 in arrears (the “Arrears”).

G. The Debtor filed her Plan of Reorganization and Disclosure Statement on May 7, 2019 and her First Modified Plan on May 17, 2019 (the “Plan.”)

H. The Plan provides for the Debtor to pay the Pre-petition Arrears to US Bank over eight years.

I. US Bank has articulated certain objections to the Plan as it relates to the Plan’s treatment of US Bank’s claim.

J. The Debtor and US Bank (collectively, the “Parties”) now wish to resolve the objections of US Bank to the Plan consensually, as more particularly set forth herein.

NOW THEREFORE, in consideration for the promises, covenants and conditions set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The recital clauses set forth above are made an integral part of this Stipulation and are true and correct.

2. **Treatment of US Bank’s Claim.** Section 2(D) of the Plan shall be and hereby is amended to provide as follows:

a. The Debtor shall pay the Pre-Petition Arrears over five years commencing on the Effective Date and on the fifteenth day of each month thereafter as follows:

YEAR 1. \$1,133 per month x 12= \$13,596

YEAR 2. \$1,333 per month x 12= \$15,996

YEAR 3. \$2,127 per month x 12= \$25,524

YEAR 4. \$2,127 per month x 12 = \$25,524

YEAR 5. \$2,127 per month x 12= \$25,524

b. The Debtor shall continue to make her regular monthly payment under the Note in accordance with the Note and Mortgage.

c. All terms of the Loan Documents not specifically modified by the terms of this Stipulation shall remain in full force and effect.

d. In the event that the Debtor shall fail to make any payment required under Paragraph 2(a) hereof, United Bank shall, after the expiration of thirty days following the missed payment, be entitled to file a Certificate of Default with the Court and request the entry of an Order granting relief from stay for the purpose of enforcing its state court rights.

3. **Notices.** All notices required under this Stipulation shall be made by electronic mail and first class mail, postage prepaid at the following addresses:

Debtor: Cassandra L. Banko
304 N. Essex Ave.
Margate, NJ 08402

with copy to: Ellen M. McDowell, Esq.
emcdowell@mcdowelllegal.com
46 West Main Street
Maple Shade, NJ 08052

US Bank: US Bank
C/o SPS Portfolio Servicing
PO Box 65250
Salt Lake City, UT 84165

with copy to: Douglas McDonough, Esq.
Frankel Lambert Weiss Weisman & Gordon, LLP
80 Main Street, Suite 460
West Orange, NJ 07052
(973) 325-8800

4. **Further Assurances.** The Parties agree to execute any and all further documents as necessary to effectuate the terms of this Stipulation and achieve the results intended by the Parties.

5. **Modifications; Amendments.** Neither this Stipulation nor any of its terms may be modified, altered, amended or waived, except in writing signed by the Parties.

6. **Binding Effect.** This Stipulation shall be binding upon all successors and assigns of the Parties and on any Chapter 7 or 11 trustee appointed in the Debtor's case.

7. **Terms of the Stipulation.** Each of the Parties acknowledges that it has read and understands the effect of all of the terms of this Stipulation, is entering into this Stipulation voluntarily and without duress and has been represented by competent counsel of its choosing at all times. Each of the Parties further agrees that this Stipulation was the product of negotiations between the Parties and that any rules of construction requiring that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Stipulation.

8. **Authorization.** Each of the Parties represents and warrants that it or she is competent, duly authorized and has the requisite authority to exercise, deliver and perform this Stipulation, and that each of the signatories of this Stipulation is duly authorized, on behalf of the Debtor and SPS, respectively, to sign this Stipulation and bind the Debtor and SPS to its terms and conditions.

9. **Merger Clause.** This Stipulation contains the entire agreement between the Parties concerning the subject matter of this Stipulation and supersedes all prior agreements, understandings, discussions, negotiations, and undertakings between the Parties concerning the subject matter hereof, whether written or oral.

10. **Choice of Law.** This Stipulation shall be interpreted and construed in accordance with the provisions of the Bankruptcy Code and, where not inconsistent, the laws

of the State of New Jersey, without regard to New Jersey's internal rules regarding conflicts of law.

11. **Counterparts.** The Parties hereto may sign this Stipulation in two or more counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same instrument. A signature via facsimile or portable document format (pdf) will be deemed to have the same force and effect as an original for purposes of this Stipulation.

Dated: September __, 2019

**FRANKEL LAMBERT WEISS WEISMAN
& GORDON, LLP**
Counsel to US Bank, N.A.

MCDOWELL LAW, P.C.
Counsel to the Debtor

By: _____
Douglas McDonough
80 Main Street, Suite 460
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Dated: September 11, 2019

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